



Policy: 1161
Procedure: 1161.08
Chapter: Investigations and Inspections
Rule: Truth Verification Methods

Effective: 7/24/08
Replaces: 1160.14
Dated: 07/21/06

Purpose:

The Arizona Department of Juvenile Corrections (ADJC) uses truth verification methods to validate truth and deception through use of scientifically reliable procedures that are administered by properly trained and qualified individuals.

Rules:

1. Truth Verification Examination Methods:

- a. The **DIRECTOR OR DESIGNEE** may order an employee to submit to a truth verification examination during an administrative investigation;
- b. In the case of an employee requesting the examination, the **DIRECTOR OR DESIGNEE** shall approve or disapprove his/her request;
- c. When a complaint from a citizen, juvenile, and/or other employee is the basis for the investigation, the **DIRECTOR OR DESIGNEE** may require the citizen, juvenile, and/or other employee to submit to a truth verification examination prior to the employee who is the subject of the complaint if the administrative investigation meets the following criteria:
 - i. The conduct complained of is non-criminal;
 - ii. No substantial corroborating information has been discovered by the investigating supervisor/Professional Standards Investigator;
 - iii. If this requirement will substantially slow or adversely impact the administrative investigation, the employee may be required to submit to the truth verification examination prior to the citizen submitting to the exam.

2. Examination Guidelines:

- a. Rules such as the Garrity Rule will normally apply and the **INVESTIGATOR AND/OR THE EXAMINER** shall fully inform the individual subject to examination as to the intent and purpose of the examination;
- b. The **QUALIFIED EXAMINER** shall use questions pertinent to the subject of inquiry in a truth verification examination, except that the **EXAMINER** may ask control questions as necessary to validate an examination within the scope of acceptable truth verification procedures;
- c. **QUALIFIED EXAMINERS** shall perform truth verification examinations within a reasonable time of the request;
- d. **EMPLOYEES** do not have right to assistance of counsel (attorney) when required to submit to a truth verification examination in the employee-employer relationship;
- e. **EMPLOYEES** shall tell the truth at all times, shall answer pertinent questions to the best of their knowledge, and shall not refuse to answer or knowingly give a false or misleading answer to any question before, during, or after a truth verification examination;
- f. **EMPLOYEES** shall cooperate with supervisors when involved in any incident requiring the use of the truth verification equipment;
- g. At his/her discretion the **DIRECTOR** may terminate an employee who refuses to take an administrative truth verification exam when so ordered by a superior.

3. In Criminal Matters Under Investigation:

- a. The **CRIMINAL INVESTIGATOR** shall advise the employee of his/her right to accept or reject the truth verification examination;

Procedure No.1161.08 Truth Verification Methods
Page 2 of 5

- b. The **DIRECTOR OR IID ADMINISTRATOR** may order the employee to take the examination as an aid in the administrative investigation if the employee refuses the examination after being ordered to by a Professional Standards Investigator:
 - i. The **IID INVESTIGATOR** shall inform the employee that the refusal to submit to the truth verification examination cannot and will not be used against him/her in a criminal court of law;
 - ii. The **IID INVESTIGATOR** shall inform the employee that the results of the truth verification examination or any information derived from the examination may be used by the Department in both administrative and criminal actions if an employee waives his/her Miranda rights and elects to take the truth verification examination.

4. Polygraph:

- a. The **EXAMINER** shall thoroughly explain the process and purpose of the examination to the subject being examined.
 - i. The polygraph is an instrument that records certain physiological activity and changes in activity from a person during the testing phase of examination;
 - ii. The instrument simultaneously records a minimum of respiratory activity, galvanic skin resistances or conductivity, and cardiovascular activity;
 - iii. The process of polygraph examination also includes an extensive pre-test interview and whatever post test conversation that might be necessary;
 - iv. The pre-test interview not only involves a review of the case facts, but thoroughly covers the subject's educational background, health condition, and other matters of significance.
- b. **INVESTIGATORS AND OTHER PERSONNEL** shall:
 - i. Consider the polygraph examination as a supplement to, not a substitute for, a field investigation;
 - ii. Contact the polygraph examiner as soon as they feel an examination might be appropriate;
 - iii. Ensure that stressful interviews and/or interrogations not occur immediately prior to a scheduled examination;
 - iv. Supply field reports and all other pertinent information to the examiner well before the scheduled appointment for examination.
- c. Specific Guidelines. By the very nature of the examination, a polygraph test is voluntary on the part of the individual being requested to appear.
 - i. In the case of juveniles, the **INVESTIGATOR** shall obtain parental or other appropriate permission;
 - ii. The **INVESTIGATOR** shall encourage potential participants to use the polygraph process as a method of verifying truth as to any legitimate issue under investigation and/or in dispute or conflict;
 - iii. The **INVESTIGATOR AND/OR EXAMINER** shall give Miranda Warnings and other information to the examinee if required or appropriate, given the circumstances of the particular examination;
 - iv. The **EXAMINER** shall be knowledgeable of the following factors that are generally barriers to the examination prior to making the final decision as to conducting any examination:
 - (1) Certain mental conditions;
 - (2) Physical ailments;
 - (3) Recent surgery;
 - (4) Pregnancy;
 - (5) Other factors that may prohibit testing.
 - v. **INVESTIGATORS** should withhold critical pieces of information that are probably known only to the victim, the investigator, and/or the suspect;
 - (1) This will allow the examiner to utilize certain testing techniques including the Peak of Tension test;

Procedure No.1161.08 Truth Verification Methods
Page 3 of 5

- vi. Additionally, **INVESTIGATORS AND OTHERS** should speak about the examination process in a positive manner leaving the details of how the polygraph "works" to the examiner.

5. Computer Voice Stress Analyzer:

- a. Purpose - the primary purpose of the Computer Voice Stress Analysis (CVSA) is to determine if the person being examined is being truthful or deceptive. When this is determined, the investigators can then evaluate the evidence and determine a direction for their investigation.
- b. Rules of Procedure: **INVESTIGATORS** shall:
 - i. Use the computer voice stress analysis as a supplement to, not a substitute for, a quality investigation;
 - ii. Contact the examiner early on in the investigation;
 - iii. Not use the computer voice stress analysis as a last resort;
 - iv. Not resort to any misleading statements about the instrument, examination, or procedure during an investigation when a computer voice stress analysis may be used.
 - (1) If a subject determines that s/he was deceived, s/he may be overly suspicious of the examiner and system used, thus undermining the entire procedure.
 - v. Allow a period of relaxation prior to a computer voice stress analysis if a subject has been interviewed using a high stress technique (such as Reid) immediately prior to the examination;
 - vi. Emphasize to a person who has consented to take a computer voice stress analysis that the examination and system used are extremely effective methods of establishing the truth;
 - vii. Express confidence in the impartiality of the examiner and the accuracy of the procedure;
 - viii. Prior to the examination, withhold certain information from the person to be examined.
 - (1) The information should be known only to the victim, the investigator, and the person with guilty knowledge.
 - ix. Not use promises, threats, coercion, or physical force to convince a person to submit to a computer voice stress analysis;
 - x. Leave all attempts to explain the procedure of computer voice stress analysis to the examiner.
 - (1) Only express confidence in the instrument to be used and the procedure.
 - xi. Document in writing all agreements as to the use of the examination and its admissibility in court that are agreed on by the attorneys involved prior to the examination;
 - xii. Not use the computer voice stress analysis under most circumstances when a defense counsel is present. Defense counsel may approve of the questions to be asked after a pre-examination interview but s/he may not interfere with any examination;
 - xiii. Not threaten a victim or witness to use a computer voice stress analysis to obtain a recantation;
 - xiv. If practical, examine the complainant, victim, or witness before a suspect in instances where the veracity of the victim or witness is in question;
 - xv. Be aware that the computer voice stress analysis cannot examine intent. In those instances where intent is an important issue, then the polygraph examination should be considered;
 - xvi. Ideally provide the examiner who is a certified computer voice stress analysis operator with a copy of the report 24 hours prior to the examination. Plan for at least one hour of briefing for the examiner.
 - (1) The **CVSA EXAMINER** must know the facts of the case as known by the investigator.

- (a) The **CVSA EXAMINER** must know what is most important to the investigator in solving his/her case;
 - (b) The **CVSA EXAMINER** must know what the investigator expects to gain by the examination;
 - (c) The **CVSA EXAMINER** should know as much about the subject as possible prior to the examination.
 - xvii. Be available prior to the examination for questions by the CVSA examiner and must be available during the examination should admissions or confessions occur.
 - c. The **CVSA EXAMINER** shall have sole discretion as to whether or not an examination shall take place and the questions to be asked. In addition, the **CVSA EXAMINER** shall dictate the time, place, and circumstances of the examination based upon the equipment and technique to be used.
 - i. If any CVSA examiner refuses to conduct a test, then the **INVESTIGATOR** shall make that refusal and the type of examination known to any alternate examiner prior to the examination;
 - ii. **NO ONE OTHER THAN AN EXAMINER WHO IS A CERTIFIED COMPUTER VOICE STRESS ANALYSIS OPERATOR** shall remove the instrument from the authorized storage facility;
 - iii. The **CVSA EXAMINER** shall audio record or video record the computer voice stress analysis. However, in those instances when the recording is not possible either due to physical constraints or malfunction, the charts and questions used in an examination shall provide sufficient record of the examination;
 - iv. After each examination the **CVSA EXAMINER** shall:
 - (1) Evaluate the examination in compliance with the National Institute for Truth Verification standards and come to a conclusion of deceptive or non-deceptive.
 - (2) Verify this conclusion in a cold call situation by a National Institute for Truth Verification certified examiner;
 - (3) Write a supplemental report outlining his/her qualifications, the relevant issues, and the result of the examination as well as the cold call by another examiner;
 - (4) Maintain all charts, questions, and tapes for a minimum of three years.
 - d. The **INVESTIGATOR** may make results of an examination available only to the following:
 - i. Subject of the examination (with the approval of the case agent);
 - ii. Subject's attorney (with the approval of the case agent);
 - iii. Case agent or his/her designee.
 - e. Under no circumstances shall **ANYONE** use a computer voice stress analysis as a probable cause for an arrest. Often times a computer voice stress analysis can exclude a potential suspect or give an investigator a direction for his/her investigation;
 - f. An **INVESTIGATOR** can use a computer voice stress analysis in conjunction with other facts and circumstances to provide probable cause for a search warrant.
6. Covert or overt computer voice stress analysis is a mobile operation and may be administered at any time, any place, or under any circumstances at the direction of the CVSA examiner and in compliance with National Institute for Truth Verification guidelines;
- a. Overt computer voice stress analysis is defined as an examination where the subject knows of the examination and its intent.
 - i. An **CVSA EXAMINER** shall only give an overt computer voice stress analysis examination to a subject who has voluntarily agreed to submit to examination.
 - b. Covert computer voice stress analysis is defined as an examination where the subject does not know of the examination or its intent.
 - i. After consulting with an CVSA examiner, the **CASE INVESTIGATOR** may direct a covert examination take place in person or by other means;
 - ii. At his/her discretion the **CVSA EXAMINER** may give a covert computer voice stress analysis examination to any subject at any time using any real time or recording device. Arizona law and Agency policy do not require that the person to be tested

know that s/he is going to be subjected to a computer voice stress analysis. The **CVSA EXAMINER** may give:

- (1) A covert examination by phone;
- (2) A covert examination by recording a live interview by the investigator;
- (3) A covert examination by recording a live interview and piecing the interview in such a manner as to comply with the National Institute for Truth Verification question formats.

c. **IID PERSONNEL AND INDIVIDUALS UNDER CONTRACT WITH THE DEPARTMENT** shall follow the following National Institute for Truth Verification guidelines.

- i. A computer voice stress analysis may be used on a child as young as eight years of age by a qualified examiner. However, it is the sole discretion of the examiner as to whether or not an examination shall occur with a minor under the age of eighteen.
- ii. The decision as to whether or not to seek the permission of a parent or guardian shall be at the discretion of the case agent after considering the facts of the case and consulting with the examiner;
- iii. The decision as to whether or not to share the results of the examination shall be at the discretion of the case agent after considering the facts of the case and consulting with the examiner;
- iv. In those instances where a non-offending and supporting parent/guardian is involved in the investigation, every effort shall be made to make the parent/guardian aware of the results of the examination so long as a premature disclosure will not endanger the investigation;
- v. A computer voice stress analysis examination can be given in any instance where a normal interview can take place. Non-examinations by a polygraph examiner should be brought to the attention of the computer voice stress analysis examiner but should not preclude the subject from taking the examination. The final decision as to whether or not a test is given rests with the computer voice stress analysis examiner.

7. **Request for Computer Voice Stress Analysis:**

- a. The **INVESTIGATOR OR EXAMINER** shall make every effort to have an examination conducted during normal business hours while taking into consideration the needs of the investigation and the availability of the examiner;
- b. The **INVESTIGATOR** shall thoroughly brief the CVSA examiner on all aspects of the case including potential for a conflict of interest prior to the examination. The CVSA examiner shall make the final decision as to whether or not an examination takes place;
- c. If an examiner or investigator discovers a possibility of a conflict of interest, the **EXAMINER AND INVESTIGATOR** shall discuss the examination with the Investigations Commander. Should an actual conflict of interest exist, **ANOTHER QUALIFIED CVSA EXAMINER** shall conduct the investigation.

Signature Date

7-7-08

Approved by Process Owner

John Dempsey,
Inspections and Investigations Chief Administrator

Effective Date

7/21/08

Approved by

Michael D. Branham, Director